

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-365-C - ORDER NO. 2006-435

JULY 26, 2006

IN RE: Application of Telmex USA, LLC for a)	ORDER
Certificate of Public Convenience and)	GRANTING
Necessity for Authority to Provide Intrastate)	CERTIFICATE, AND
Telecommunications Services within the State)	APPROVING MODIFIED
of South Carolina and Request for Alternative)	ALTERNATIVE
Regulation of its Business Service Offerings)	REGULATION
and All Calling Card Service Offerings within)	
the State of South Carolina.)	

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of Telmex USA, LLC (“Telmex” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide intrastate telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2005) and the rules and regulations of the Commission. By its Application, Telmex also requests modified alternative regulation of its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C as modified by Order No. 2001-997, and waiver of certain Commission regulations.

The Commission’s Docketing Department instructed Telmex to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by

the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of Telmex and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Telmex complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

Subsequently, Telmex and ORS filed a Settlement Agreement, which is attached hereto as Order Exhibit 1. A hearing was convened on June 26, 2006, at 10:00 a.m. in the Commission's Law Library, Columbia, South Carolina, before David Butler, Hearing Examiner. Telmex was represented by Bonnie D. Shealy, Esquire. The Office of Regulatory Staff (ORS) was represented by Jeffrey M. Nelson, Esquire.

Alex Marban, Controller for the Company, appeared and testified in support of the Application. Mr. Marban also adopted the prefiled written testimony of Jorge Rodriquez, President of the Company. The record reveals that Telmex is a Limited Liability Company formed under the laws of the State of Delaware and has registered to transact business in South Carolina as a foreign Limited Liability Company. According to Mr. Marban, Telmex seeks authority as a switched based reseller to provide long distance telecommunications in the State of South Carolina. Initially, Telmex's intrastate services will consist primarily of prepaid calling cards that can be assessed twenty-four hours a day, seven days a week from any touchtone telephone using toll free access numbers. The cards may be used for both domestic and international calling, and are normally issued in \$5.00 denominations.

Mr. Marban testified that Telmex's computer equipment informs the customer of the amount of balance remaining on the card each time it is used. As the user places and

completes calls over the network in accordance with the instructions on the prepaid card, the prepaid card is reduced at a specified unit or rate per minute of use depending upon the type of card. The prepaid card may be used until the balance is depleted. Mr. Marban stated that the Company was aware that it would be required to post a \$5,000 bond with the Commission prior to offering pre-paid card services in South Carolina. In addition to prepaid card services, Telmex will be offering interstate and international private line, frame relay, and ATM services to business customers. Mr. Marban explained the remainder of the Company's request for authority, and the record further reveals the Company's services, operations, and marketing procedures.

Mr. Marban also discussed Telmex's technical, financial, and managerial resources to provide the services for which it seeks authority. Mr. Marban offered that Telmex possesses sufficient financial resources to support its operations in South Carolina. With regard to management and technical capabilities, the Company has not been denied a license in any of the states in which it has applied, nor has it had a license revoked in any jurisdiction. The Company's Application and Mr. Marban's testimony both evidence that Telmex's management team has extensive experience in telecommunications, information technology, regulatory matters, and accounting and finance. Mr. Marban also testified that Telmex will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Mr. Marban offered that approval of Telmex's Application would serve the public interest by increasing the level of competition in South Carolina. Mr. Marban, on behalf of the Company, requests a waiver of 26 S.C. Code Ann. Regs.103-610 and to be allowed

to keep the Company's books at its headquarters. Further, the Company requests an exemption from record keeping policies that require maintenance of financial records in conformance with the Uniform System of Accounts (USOA). Telmex maintains its books in accordance with Generally Accepted Accounting Principles (GAAP).

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Telmex is a Limited Liability Company formed under the laws of the State of Delaware and is authorized to do business in South Carolina by the Secretary of State.

2. Telmex has no reported record of violations of regulatory laws or regulations in the jurisdictions in which it is currently operating.

3. Telmex desires to operate as a provider of resold interexchange services in South Carolina.

4. We find that Telmex possesses the managerial experience and capability to operate as a provider, through resale, interexchange services in South Carolina.

5. We find, based on the financial statements submitted by the Company, that Telmex possesses sufficient financial resources to provide the services as described in its Application and testimony.

6. We find that the issuance of a Certificate of Public Convenience and Necessity to Telmex to operate as a reseller of interexchange telecommunications services in South Carolina would be in the best interest of the citizens of South Carolina.

by increasing the level of competition in South Carolina, by providing an alternative source for telecommunications services, and by creating incentives for lower prices, more innovative services, and more responsive customer service.

7. Telmex has no current plans to maintain offices in South Carolina and requests a waiver of 26 S.C. Code Ann. Regs. 103-610. The Commission finds Telmex's requested waiver reasonable and understands the difficulty presented to Telmex should the waiver not be granted. Further, we find that a waiver of 26 S.C. Code Ann. Regs. 103-610 to be in the public interest. We also believe that exemption from the policies that would require the Company to keep its records under the USOA is reasonable.

8. The Company has the managerial, technical, and financial resources to provide the services as described in its Application.

9. As a condition to authorizing Telmex to offer prepaid calling cards in South Carolina, Telmex should be required to post a bond with the Commission in the amount of \$5,000 in the form of a Certificate of Deposit or Surety Bond.

CONCLUSIONS OF LAW

1. The Commission concludes that Telmex possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that Telmex will participate in the support of universally available telephone service at affordable rates to the extent that Telmex may be required to do so by the Commission.

3. The Commission concludes that Telmex will provide services which will meet the service standards of the Commission.

4. The Commission concludes that approval of Telmex's Application to provide intrastate telecommunications services within South Carolina will serve the public interest by enhancing competition in the State of South Carolina by offering additional service offerings to South Carolina's consumers and by providing for efficient use of existing telecommunications resources.

5. The Commission concludes that the provision of telecommunications service by Telmex will not adversely impact the public interest.

6. The Commission concludes that the issuance of the authority to provide interexchange telecommunications service as requested by Telmex and as set forth in its Application and Mr. Marban's testimony is in the best interests of the citizens of the State of South Carolina.

7. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Telmex to provide intrastate interexchange telecommunications services.

8. The Commission adopts a rate design for Telmex for its residential interexchange services which includes maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

9. Telmex shall not adjust its residential interexchange rates below the approved maximum level without notice to the Commission and to the public. Telmex shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp.2005).

10. The Commission concludes that Telmex's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and

operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission.

11. We conclude that Telmex’s request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted as strict compliance with the regulation would cause undue hardship on Telmex. We also grant exemption from the policies requiring the use of USOA.

12. The Settlement Agreement between the parties should be approved.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to Telmex to provide intrastate interLATA service and to originate and terminate toll traffic

within the same LATA, as set forth herein, through resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission. The Company is also specifically authorized to provide resold inbound and outbound interexchange telecommunications services.

2. The Company's rate designs for its products shall conform to those designs described in Conclusions of Law above.

3. If it has not already done so by the date of issuance of this Order, Telmex shall file its revised tariff and an accompanying price list for any applicable rates within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations, as well as the provisions of the Telmex-ORS Settlement Agreement.

4. Telmex is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier if the end-user so desires.

6. Telmex shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Telmex changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, Telmex shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, Telmex shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. As a condition of offering prepaid calling cards, Telmex shall be required to post a surety bond or certificate of deposit in the amount of \$5,000 with this Commission prior to their offering such services in South Carolina. This requirement shall be reviewed on an annual basis.

9. Telmex shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Telmex shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at www.psc.sc.gov/reference/forms.asp or at the ORS's website at w.w.w.regulatorystaff.sc.gov. The title of this form is "Telecommunications Company

Annual Report.” This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1st**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31st** of each year. The proper form for filing gross receipts information can be found at the ORS website at www.regulatorystaff.sc.gov, and the appropriate form is entitled “Gross Receipts Form.”

Each telecommunications company certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund (USF) worksheet, which may be found on the ORS’s website at www.regulatorystaff.sc.gov. This worksheet provides ORS information required to determine each telecommunications company’s liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **August 15th** with the Commission and ORS.

10. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Telmex shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at www.psc.sc.gov/reference/forms.asp; this form shall be utilized for the provision of this

information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

11. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

12. At the hearing, Telmex requested a waiver of 26 Code Ann. Regs. 103-610 (Supp. 2005), which requires that records required by the Commission's Rules and Regulations be maintained in South Carolina. The record reveals that Telmex's principal headquarters will be located outside of South Carolina. Telmex requests permission to maintain its books and records at its headquarters in its home office. The Commission finds Telmex's requested waiver reasonable and understands the difficulty presented to Telmex should the waiver not be granted. The Commission therefore grants the requested waiver that Telmex be allowed to maintain its books and records at its principal headquarters. However, Telmex shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and Telmex shall promptly notify the Commission and ORS if the location of its books and records changes.

13. Telmex also requests that it be exempt from record keeping policies that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts. The USOA was developed by the FCC as a means of regulating telecommunications companies subject to rate base regulation. As a competitive carrier, Telmex maintains its book of accounts in accordance with Generally Accepted Accounting Principles. GAAP is used extensively by interexchange carriers and other

providers. Accordingly, Telmex requests an exemption from the USOA requirements.

We grant the Company's request for the reasons stated above.

14. The Settlement Agreement between Telmex and ORS is hereby approved.

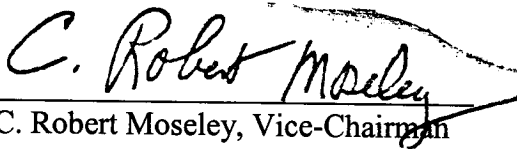
15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



G. O'Neal Hamilton, Chairman

ATTEST:



C. Robert Moseley, Vice-Chairman

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-365-C

In Re:

Application of Telmex USA, LLC for)
A Certificate of Public Convenience)
And Necessity to Provide Intrastate)
Telecommunications Services within the)
State of South Carolina and for)
Alternative Regulation of its Business)
Service Offerings and All Calling Card)
Service Offerings within the State of)
South Carolina.)

SETTLEMENT AGREEMENT

RECEIVED
2006 FEB 23 PM 3:01
SC PUBLIC SERVICE
COMMISSION

This Settlement Agreement ("Settlement Agreement") is made by and among the Office of Regulatory Staff ("ORS") and Telmex USA, LLC, ("Telmex" or "the Company") (collectively referred to as the "Parties" or sometimes individually as "Party");

WHEREAS, on November 22, 2005, Telmex filed its Application requesting a Certificate of Public Convenience and Necessity to provide intrastate telecommunications services within the State of South Carolina and for Alternative Regulations for its business service offerings and all calling card services offerings within the State pursuant to Orders No.95-1734 and 96-55 in Docket No. 95-661-C and as modified by Order No. 2001-997 in Docket No. 2000-407-C;

WHEREAS, on December 16, 2005, the Public Service Commission of South Carolina ("the Commission") appointed Mr. David Butler as the Hearing Examiner in this matter;

WHEREAS, on February 27, 2006, Telmex pre-filed testimony of Jorge Rodriquez including 1 exhibit with the Commission;

WHEREAS, the Public Service Commission of South Carolina (the "Commission") scheduled this matter to be heard before Hearing Examiner David Butler on March 27, 2006 at 11:30 am;

WHEREAS, the purpose of this proceeding is to review the application filed by Telmex and its request for a Certificate of Public Convenience and Necessity to provide resold intrastate interexchange communications services and for alternative regulations for its business service offerings and all calling card services in South Carolina;

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical, managerial, and financial expertise of the Company to provide such services;

WHEREAS, ORS has reviewed the Application and the financial data provided by the Company and its parent, and ORS has calculated certain performance ratios based upon information provided by the Company;

WHEREAS, ORS has investigated the services to be offered by Telmex and its intended customer service plans;

WHEREAS, ORS has reviewed the proposed tariffs submitted by Telmex;

WHEREAS, as a result of its investigations, ORS has determined a) Telmex intends to offer telecommunications services such as prepaid calling cards, inbound and outbound services, calling card services, directory assistance, conference services, and private line services; b) the officers of Telmex possess sufficient technical and managerial abilities to adequately provide the services applied for; c) based upon the information provided and the analysis performed, Telmex appears to have access to

sufficient financial resources necessary to provide the services proposed in its application; d) certain revisions should be made to Telmex's proposed tariffs in order to comply with Commission statutes and regulations; e) the services provided by Telmex will meet the service standards required by the Commission; f) the provision of services by the Company will not adversely impact the availability of affordable telecommunications services; g) to the extent it is required to do so by the Commission, Telmex will participate in the support of universally available telephone service at affordable rates; and h) the provision of interexchange services by Telmex will not adversely impact the public interest;

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

- 1) The Parties agree that Telmex's Application and exhibits to the Application are incorporated into this Settlement Agreement and made a part hereof;
- 2) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also agree to stipulate to the pre-filed testimony and exhibit of Telmex Witness Jorge Rodriquez without cross-examination by ORS;

- 3) Telmex agrees to submit into the record before the Commission revised tariffs in accordance with ORS recommendations as set forth in Exhibit 1 to this Settlement Agreement and incorporated herein;
- 4) Telmex agrees to provide, and has already submitted, financial data which was provided as exhibit 3 to its Application and which is incorporated by reference;
- 5) Telmex agrees to comply with South Carolina Code Section § 58-9-300 entitled "Abandonment of Service." Additionally, Telmex agrees to adhere to the Federal Communication Commission rule 47 C.F.R. § 64.1190 and 64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, Telmex shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;
- 6) On the basis of their stated intent to offer pre-paid services and calling cards Telmex agrees to post a surety bond in the amount of \$5,000.00 with the PSC and to do so prior to the issuance of a certificate of public convenience and necessity by the PSC in this matter.
- 7) The Parties agree that the Company should be granted a Certificate of Public Convenience and Necessity to provide access services and resold interexchange telecommunications services within the state of South Carolina;

- 8) ORS does not oppose the Company's request for waiver of 26 S.C. Code Ann. Regs. 103-610 (location of records and reports) and of any Commission policy or rule requiring a carrier to maintain its financial records in conformance with the Uniform System of Accounts ("USOA");
- 9) ORS does not oppose the Company's request that all of its telecommunications offerings be regulated as described in its application pursuant to the procedures set out in Commission Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C as modified by Commission Order No. 2001-997 in Docket No. 2000-407-C;
- 10) Telmex agrees to resell the services of only those interexchange carriers authorized to do business in South Carolina by the Commission. Telmex agrees to notify ORS and the Commission, in writing, if the Company changes underlying carriers;
- 11) Telmex agrees that the Company will allow an end-user of resold services to access an alternative interexchange carrier or operator service provider if the end-user expresses such a desire;
- 12) The Company agrees to file necessary financial information with the Commission and ORS for universal service fund reporting, annual reporting and/or gross receipts reporting;
- 13) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B) (added by Act 175). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

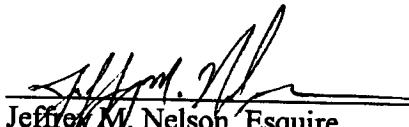
ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

- 14) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and to take no action inconsistent with its adoption by the Commission. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.
- 15) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement in its entirety without penalty or obligation.

- 16) This Settlement Agreement shall be interpreted according to South Carolina law.
- 17) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

WE AGREE:

Representing the Office of Regulatory Staff

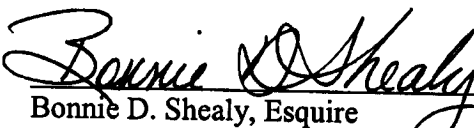


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2/28/06
Date

WE AGREE:

Representing Telmex, Inc.



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2/28/06
Date

Telmex USA, LLC Docket No. 2005-365-C
Office of Regulatory Staff: Tariff Review Page 1

Exhibit IV – Proposed Interexchange Carrier Tariff (IXC)
SC Tariff No. 1

Section 1 – Definitions And Abbreviations

Original Page 11 - Suggest adding the acronym “ORS” for the “South Carolina Office of Regulatory Staff.”

Section 2 - Rules And Regulations

2.2 – Limitations on Service

2.2.4 – Original Page 23 – “All Services provided according to this Tariff are ~~intrastate~~ Services. International and intrastate service is available on an add-on basis.” Suggest that the Company include a statement verifying that the rates published in this tariff are the applicable intrastate rates for South Carolina.

2.3 – Limitation of Liability

2.3.1 – Original Page 24 - “Conditions under which the Company may refuse or terminate service without liability include:

- For non-payment of any sum owing to the Company in accordance with Paragraph 2.12.22”

- For insufficient or fraudulent billing information, invalid or unauthorized telephone numbers, or pre-arranged account code numbers;

- For any violation by a Customer related to the request for such service of either the provisions of this Tariff or any laws, rules, regulations, or policies;

- By reason of any order or decision of a court or other governmental authority which prohibits the Company from furnishing such services;

- If the Company deems such refusal necessary to protect itself or third parties against fraud or to otherwise protect its personnel, agents, or service

- Failure to meet specific program provisions.

- ~~Any reasonable business reason.~~

- Failure to meet the Company’s credit extension policy.

- The Company is selling, transferring, or ending the business.

Suggest that the Company eliminate the 7th Condition (highlighted) from this subsection.

Telmex USA, LLC Docket No. 2005-365-C
ORS Tariff Review Page 2

Exhibit IV – Proposed Interexchange Carrier Tariff (IXC)
SC Tariff No. 1

2.9.2 – Direct Billing By Company And / Or Authorized Billing Agent - Original Page 43 – “Bills are sent to the Customer’s current billing address no later than thirty (30) days following the close of billing. All bills will be in English. Call detail is available with the bill. Payment in full is due by the due date disclosed on the bill. Charges are available only in United States currency. Payment may be made by check, money order, or cashier’s check made payable as named on the bill and sent to the address as listed on the bill. If the bill is not paid within thirty (30) days from the invoice date, the Company may impose a late charge on the delinquent amount. A late charge applies to any past due balance. Pursuant to R.103-622.2, a maximum of one and one half percent (1.5%) may be added to any unpaid balance brought forward from the previous billing date to cover the cost of collection and carrying accounts in arrears. This method of late payment charge will be made in lieu of any other penalty. Billings for 900 and 900-type charges or non-regulated items are excluded from the balance on which a late fee may be imposed. The one-time charge shall apply on the undisputed amount or on the disputed amount if a dispute is resolved in favor of the Company. ~~When another telecommunications carrier provides the billing function on behalf of the Company, the other carrier’s late payment charge applies.”~~ Suggest that the Company clarify the application of late payment charges, specifically in the last sentence of this subsection. The clarification issue is that only one late payment charge will apply regardless of which entity provides the billing and that the late fee is limited to the provisions of R103-622.2 of the Commission’s Rules and Regulations.

2.10 – Disputed Charges

2.10.1 – Original Page 44 – “The Company will not be required to consider any Customer claim for damages or statutory penalties, or adjustments, refunds, credits or cancellation of charges, unless the Customer has notified the Company, in writing, of any dispute concerning charges, or the basis of any claim for damages, ~~within sixty (60) calendar days after an invoice is rendered or a debit is effected by the Company for the call giving rise to such dispute or claim.~~ Suggest revising the highlighted portion of language in this subsection to state: “All bills are presumed accurate, and shall be binding on the customer unless objection is received by the Company in writing or orally within the applicable statute of limitations. No credits, refunds or adjustments shall be granted if demand therefore is not received within such limitation period.”

Telmex USA, LLC Docket No. 2005-365-C
ORS Tariff Review Page 3

Exhibit IV – Proposed Interexchange Carrier Tariff (IXC)
SC Tariff No. 1

2.10.2 – Original Page 44 – “Any such notice must set forth sufficient facts to provide the Company with a reasonable basis upon which to evaluate the Customer’s claim or demand. Such notice must be sent to the Company’s Customer Service Department as per Section 2.8 of this Tariff. If the Customer is not satisfied with the Company’s resolution of a billing inquiry, the Customer may make an application to the Commission for review and disposition of the matter.”

Suggest revising the language in subsection 2.10.2 to state the following: “In the event a customer and the Company cannot resolve a complaint or billing dispute to their mutual satisfaction, the Customer may contact the Consumer Services Department of the ORS for assistance. The contact information for such is listed below:”

Office of Regulatory Staff
State of South Carolina
Consumer Services Department
P.O. Box 11263
Columbia, SC 29211
Telephone Number -803-737-5230
Toll Free Number – 1-800-922-1531
Fax Number – 803-737-4750

2.11 – Cancellation of Service By Customer

2.11.1 – General – Original Page 45 – “Except for Prepaid Calling Card Service and unless the Customer has signed a term plan agreement, the Company may require the Customer to give thirty (30) days written or oral notice to the Company. Notice should be addressed to the Company’s Customer Service Department. Cancellation of the Customer’s Service will be effective when the Customer’s account status is changed to inactive in the appropriate data base (s). Suggest that the Company remove the thirty day notification requirement in order to cancel service. Requiring a thirty day to discontinue service potentially impedes competition.

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2.13 – Taxes – Original Page 47 – “In addition to the charges specifically pertaining to the Company’s services, certain federal, state and local surcharges, taxes and fees will be applied. These taxes, surcharges and fees are calculated based upon the amount billed to the end user for the Company’s intrastate services. All federal, state and local taxes, surcharges and fees (i.e., sales tax, gross receipts tax, and municipal utilities tax) are listed as separate line items and are not included in the quoted rates. For Prepaid Calling Card Service, the per minute rate shown in Section 4 of this Tariff is inclusive of all surcharges, taxes, and fees except for Point-of-Sale (“sales”) taxes except for Program 20 prepaid card. Federal taxes and surcharges are not included in the rates for the Program 20 prepaid card set forth in Section 4. **Suggest deleting the term “gross receipts.” Assessments levied against utility companies for funding regulation, such as gross receipts, are not an allowable line item pass-through to consumers in South Carolina.**

2.25 – Special Service Arrangements – Original Page 54 – “Customer-specific service arrangements, which may include engineering, installation, construction, facilities, assembly, and/or other special Services, may be furnished in addition to existing Tariff offerings. Rates, terms and conditions plus any additional regulations, if applicable, for the special service arrangements will be developed upon Customer’s request. Unless otherwise specified, the regulations for the special service arrangements are in addition to the applicable regulations specified in other sections of this Tariff. **Suggest that the Company include additional language to this subsection to state: “These arrangements will be made available to the PSC and/or ORS upon request.”**

2.31 – Toll Free Service

2.31.1 (C) – General – Original Page 56 – ~~“If a Customer accumulates past-due charges, the Company reserves the right to block the Customer’s request for a change in PFC to another carrier (i.e., porting of the toll free number) including a request for a Responsible Organization (Resp. Org.) change, until such time as all charges are paid in full and all disputes, if any, resolved.~~ **Suggest removing this language from the tariff. Delinquent payment of charges by the Customer does not allow a Company to block the porting of a Toll Free Number.**

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2.34 – Promotional Offerings – Original Page 63 – “The Company will, from time to time, offer one or more of the following promotions to its Customers waiving or reducing certain rates, charges, fees, or penalties in response to media advertising, direct mail solicitation, telemarketing and/or direct sales presentations. These promotional offerings will be available to Customers who subscribe to one of the Services contained in this Tariff. The promotional offerings may contain a requirement that the Customer remain subscribed to a particular Service for a specified term. Suggest adding additional language to this subsection stating: “All promotions will be filed with the PSC and ORS with an informational letter. Promotions will not be published in the Company’s tariff.”

Section 4 – Maximum Rates And Charges

4.1 - Prepaid Calling Card Services – Original Page 67 – The Company has various Prepaid Card offerings displayed on Page 67 (Maximum Rates) and Page 68 (Price List) of the Tariff. Suggest that the Company take the following action in regard to the Prepaid Card offerings: (1) Remove the maximum rate schedule shown on Page 67 and only publish a Price List (Page 68) as the Company has requested Alternative Regulations in its application. Calling Card Services and Prepaid Card Services are treated as alternative regulation offerings. (2) Provide service descriptions of the various offerings. The Company has three rate offerings identified as Program 4 and two rate offerings identified as Program 5. This appears to be quite confusing. (3) Company should agree to post a \$5,000 bond or certificate of deposit consistent with the Commission’s requirements for prepaid or debit calling card services.

4.2 – Payphone Surcharge – Original Page 67 - “Pursuant to the FCC’s Order in Docket 96-128, this surcharge applies only to dial-around calls, i.e., calls originating using a carrier’s access code, a Customer’s 800 and other toll-free numbers, calling card calls, and prepaid card calls, from payphone instruments. This surcharge does not apply for calls for which the payphone provider would otherwise receive compensation. The Customer shall pay the Company a per call surcharge of \$7.00 for all such calls. Suggest that the Company remove this subsection from the tariff. A maximum rate is not applicable to this surcharge since it is governed by FCC Order.

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Price List –Original Page 68

1.1 –Prepaid Calling Card Services – All applicable information pertaining to this subsection was addressed in subsection 4.1 under the Maximum Rates and Charges.

1.2 - Payphone Surcharge – Original Page 68 - “Pursuant to the FCC’s Order in Docket 96-128, this surcharge applies only to dial-around calls, i.e., calls originating using a carrier’s access code, a Customer’s 800 and other toll-free numbers, calling card calls, and prepaid card calls, from payphone instruments. This surcharge does not apply for calls for which the payphone provider would otherwise receive compensation. The Customer shall pay the Company a per call surcharge of ~~10.89~~ for all such calls. Suggest modifying the Payphone Compensation Surcharge amount to a level no higher than \$.50 per call. The basis for this level is WC Docket No. 03-225/FCC Order No. 04-182 adopted July 27, 2004, released August 12, 2004. The \$.50 surcharge rate is consistent with all of the other certified carriers in South Carolina.